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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,034	11/08/2001	Michael John Hughes	32401-PCT/USA-A 066351.01	4204
21003	7590	04/09/2004	EXAMINER	
BAKER & BOTTS 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			TOLAN, EDWARD THOMAS	
		ART UNIT	PAPER NUMBER	3725 11
DATE MAILED: 04/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/007,034	HUGHES, MICHAEL JOHN
	Examiner	Art Unit
	Tolan Edward	3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 January 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 39-43,46-75 and 96 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 39-42,46-49,52-57,62-64,70-75 and 96 is/are rejected.
- 7) Claim(s) 43,50,51,58-61 and 65-69 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-42,46-49,57,62-64,70-75 and 96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wehde (3,529,735) in view of Townsend (4,411,573).

Wehde discloses a bale handling and lifting device comprising side walls (22,24) and a bale support surfaces (72,73) defining a bale receiving channel. The bale is engaged on its underside by the supports (72,73) and clamped by the side walls. The bale receiving channel is mounted transversely to a vehicle forward direction. The bale receiving channel is attached to a lifting boom (2) so that the bale is lifted to a desired height for stacking. Wehde does not disclose a bale displacement means for moving the bale off of the supports in a controlled manner. Townsend teaches bale displacement means (21) that are used to displace a bale into and out of a bale receiving channel (20). The displacement means are rollers (33). Figure 3 shows that bale support surfaces comprising tubular members are provided between the rollers (33). It would have been obvious to one skilled in the art at the time of invention to provide Wehde with a bale displacing conveyor as taught by Townsend in order to aid in moving the bale off of the bale supports.

Claims 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wehde in view of Townsend and further in view of Siebenga (5,211,345). Wehde in view of Townsend does not disclose shredding means. Siebenga teaches shredding roller (13) which shreds bales (see figure 8) as they are displaced off of a bale support surface (15,16). It would have been obvious to one skilled in the art at the time of invention to provide Wehde in view of Townsend with shredding means as taught by Siebenga in order to shred a bale for forage.

Allowable Subject Matter

Claims 43,50,51,58-61 and 65-69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 39-43,46-75 and 96 have been considered but are moot in view of the new ground(s) of rejection. The rejection of the Previous Office Action has been withdrawn and a new rejection has been made to respond to Applicant's newly claimed limitations directed to bale lifting means. Applicant's arguments concerning the shape of the bale receiving channel have been addressed in the base reference of Wehde.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Ed Tolan whose telephone number is 703-305-3021.

ETT 4-2-04

ED TOLAN
PRIMARY EXAMINER

